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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/023,623	12/17/2001	Tushar Ramanlal Shah	RNI-001-4P	3246

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EXAMINER

SHAH, KAMINI S

ART UNIT PAPER NUMBER

2142

DATE MAILED: 06/02/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/023,623

Applicant(s)

SHAH ET AL.

Examiner

Kamini S. Shah

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 17 December 2001.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☐ Claim(s) _____ is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-5, 11-19, 22, 27-38, 42, 47-49, 54-60, 62 and 65 is/are rejected.
- 7) ☒ Claim(s) 6-10, 20, 21, 23-26, 39-41, 43-46, 50-53, 61, 63 and 64 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- ☒ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____
- ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- ☐ Notice of Informal Patent Application (PTO-152)
- ☐ Other: _____

Double Patenting

1. The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. See *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and, *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent is shown to be commonly owned with this application. See 37 CFR 1.130(b).

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

Claims 1-65 are provisionally rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-53 of copending Application No. 10/023972. Although the conflicting claims are not identical, they are not patentably distinct from each other because the claimed invention (i.e. claim 1) in the current application ('623) is disclosed as combination of claims 1 and 5 of co-pending application ('972). The only difference between two set of claims is that the current application omits "a media abstraction unit" and "cross connect switch" as in co-pending application. However the omission of limitation in the present application is an obvious expedient to the one of the ordinary skill in the art and the remaining elements performs the same function as before. In re Karlson, 136 USPQ 184 (CCPA 1963). Also note Ex parte Rainu, 168 USPQ 375 (Bd. Apo. 1969). Omission of a reference element whose function is not needed would be obvious to one of the ordinary skill in the art.

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This is a provisional obviousness-type double patenting rejection because the conflicting claims have not in fact been patented.

Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claims 1-5, 11-19, 22, 27, 28, 29-38, 42, 47-49, 54-57, 58, 59, 60, 62, and 65 are rejected under 35 U.S.C. 102(b) as being anticipated by Pasternak et al.

Regarding to claimed invention, Pasternak et al teaches ATM network node for metropolitan area networking comprising: a first wireless interface configured for coupling to a second network node (i.e. FPGA attached to memory devices, encryption/decryption devices and forward error encoding/decoding devices, col. 13, lines 35-40); and
a link quality management unit (i.e. demodulator 2410) coupled to the first wireless interface and having
a transmission power control unit (i.e. demodulator 2410 store and retrieve the contents of the latest known power level, col. 13, lines 46-47); and
a first transmission parameter control unit (circuit 2401 and 2402 i.e. col. 13, lines 49- col. 14, lines 1-6).

Regarding to claims 2-5, Pasternak et al teaches time division multiplex (TDM) for downstream transmission, see col. 2, lines 6-15). Furthermore, Pasternak teaches as in figure 16, the “admission is a process of adjusting ST timing and power before the ST is

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allowed to receive grants for ATM cell (us.atm_cell) transmissions", see col. 9, lines 45-49.

Regarding claim 11, Pasternak et al teaches modulation control unit as a transmission parameter control unit, such as use of trellis code modulation for controlling bit rate, see col. 7, lines 6-22.

Regarding claim 27, for claiming second transmission parameter control unit, Pasternak et al teaches 3-bit transmission of state machine with switch position of 702a, 702b, and 702c, as in figures 8 and 9.

Regarding claim 28, claimed subject matter is similar to claim 1 with addition of increasing and decreasing the bandwidth of the wireless interface, Pasternak et al discloses bandwidth as the bit map option see col. 9, lines 31-44.

Regarding claims 12-19, 29-38 claimed subject matter is similar to claims 2-5 with addition to the modulation control unit comprising a signal quality detector, see col. 7, lines 2-12, and signal quality detector is bit error detector, and signal quality value is a bit error ratio i.e. col. 7, lines 16-25.

Regarding claims 22 and 42, Pasternak et al teaches link quality management unit comprising an error correction unit and ECC level control unit, i.e. error control checker 2402 in figure 24.

Regarding claims 47-49, and 58 claimed subject matter is similar to claims 28 and 32, Pasternak et al teaches increasing and decreasing the bandwidth of the wireless interface, for quality value of signal Pasternak et al discloses bandwidth as the bit map option see col. 9, lines 31-44.

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Regarding claims 54-57, claimed subject matter is similar to claims 33-36 and as disclosed on col. 7, lines 16-25.

Regarding claims 59, 60, 62, 65, Pasternak et al teaches modulation level, and power level as in figures 8 and 9 and col. 7, lines 1-11.

Allowable Subject Matter

4. Claims 6-10, 20-21, 23-26, 39-41, 43-46, 50-53, 61, 63, 64, are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

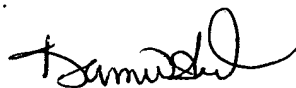
The cited prior art does not teach the comparing of incoming signal to a threshold value to generate error value, and the modulation control unit uses quadrature phase shift keying, and first ECC encoder being Reed-Solomon encoder.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Kamini S. Shah whose telephone number is 571-272-2279. The examiner can normally be reached on IFP.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Rupal B. Dharia can be reached on 571-272-3880. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Kamini S Shah
Primary Examiner
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KSS